

Appl. No. 10/669,309
Response Dated December 15, 2008
Reply to Office Action of September 15, 2008

Docket No.: 1120.P16535
Examiner: Jennifer N. To
TC/A.U. 2195

REMARKS

Summary

Claims 1, 4-10, 13, 14, 16 and 18-21 are pending in this application. Claims 1, 10, 13 and 16 are independent. Favorable reconsideration and allowance of the pending claims are requested.

Allowable Subject Matter

Claims 4-8 and 18-20 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

We would like to thank the Examiner for indicating the allowability of claims 4-8 and 18-20 if amended to include all of the limitations of the base claims and any intervening claims. Applicant respectfully submits, however, that these claims represent patentable subject matter as currently listed based on the amendments and/or remarks given for the independent claims as discussed in detail below. Applicant would like to respectfully reserve the right, however, to amend the allowable claims into independent form during further prosecution if warranted.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 13 and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 6,338,130 to Sinibaldi et al. (hereinafter “Sinibaldi”).

Applicants respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Sinibaldi fails to teach each and every element recited in claims 1, 13 and 16 and thus they define over Sinibaldi. For example, with respect to claim 1, Sinibaldi fails to teach, among other things, the following language:

retrieving a processor task value of said task type for each processor, said processor task value representing a number of other task types affected by assigning said task to a processor;
selecting a processor from said plurality of processors based on said processor task values.

According to the Office Action, this language is disclosed by Sinibaldi at column 12, line 55 – column 13, line 17 and column 17, line 64 – column 18, line 40. Applicant respectfully disagrees.

Applicant respectfully submits that claim 1 defines over Sinibaldi. Sinibaldi at the given cite, in relevant part, states:

As a particular task is to be initiated, by the application for a channel, the WAN will lookup the MIPs (processing load) required for the Task using a table as shown in FIG. 13. (See 1502, 1504, 1506). If this task is not currently present in a particular DSP table then this DSP is not chosen. Further if no DSP has this function available in the current DSP code load then request to open the channel is rejected by the WAN driver. However, if available the MIP value for this task is added to the total number of MIPs being utilized by each DSP in the Load Table shown in FIG. 12. (see step 1508). Then the MIP total is compared to each of the DSPs maximum MIP capability using the MIP per DSP table in FIG. 13. The FIRST sequential DSP that can perform this new task is selected and the Load Table is updated. (See 1510, 1512, and 1514).

As indicated above, Sinibaldi arguably discloses choosing the first sequential DSP that is capable of performing a new task. By way of contrast, the claimed subject matter

“retrieving a processor task value of said task type for each processor, said processor task value representing a number of other task types affected by assigning said task to a processor; selecting a processor from said plurality of processors based on said processor task values.”

Applicant submits that Sinibaldi clearly fails to teach or suggest the claimed subject matter. For example, Sinibaldi fails to utilize a processor task value that represents a number of other tasks affected by assigning a task to a processor during the selection process. Sinibaldi merely chooses the first sequential DSP that is capable of performing a new task. Consequently, Sinibaldi fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1.

Claims 13 and 16 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 13 and 16 are not anticipated and are patentable over Sinibaldi for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 13 and 16.

Claim Rejections - 35 U.S.C. § 103

Claims 9, 14 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sinibaldi as applied to claims 1 and 13 above, and in view of United States Patent No. 6,711,607 to Goyal (hereinafter “Goyal”). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the rejection.

Applicant respectfully submits that the cited portions of Goayl fail to remedy the deficiencies of Sinibaldi as discussed above in relation to claim 1. Further, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 9, 14 and 21 that depend from claims 1, 13 and 16, and therefore contain additional features that further distinguish these claims from the cited references.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sinibaldi in view of United States Patent No. 6,104,721 to Hsu (hereinafter “Hsu”). Applicant respectfully traverses the rejection and requests reconsideration and withdrawal of the rejection.

Claim 10 recites features similar to those recited in claim 1. Further, Applicant submits that the cited portions of Hsu fail to remedy the deficiencies of Sinibaldi as discussed above in relation to claim 1. Therefore, Applicant respectfully submits that claim 10 is non-obvious and is patentable over Sinibaldi and Hsu for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claim 10.

Conclusion

It is believed that claims 1, 4-10, 13, 14, 16 and 18-21 are in condition for allowance. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the limitations of the independent claims and dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the claims from the cited references, taken alone or in combination, based on additional features contained in the independent or dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

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The Examiner is invited to contact the undersigned to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the credit card in the previously filed credit card authorization form.

Respectfully submitted,

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